

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NEW YORK
(ROCHESTER DIVISION)**

MEGAN HOLVE, individually and on behalf of all
others similarly situated,

Plaintiff,

-vs.-

MCCORMICK & COMPANY, INC., a Maryland
Corporation,

Defendant.

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Case No. 6:16-cv-06702(FPG)

**DEFENDANT MCCORMICK & COMPANY, INC.’S
NOTICE OF MOTION TO DISMISS OR STAY THE COMPLAINT**

PLEASE TAKE NOTICE that, upon the accompanying Memorandum of Law, dated January 9, 2017, Defendant McCormick & Company, Inc. (“Defendant”) will move this Court, at a date and time to be set by the Court, or by operation of the Local Rules of Civil Procedure, for an Order dismissing the Class Action Complaint filed by Plaintiff Megan Holve (“Plaintiff”) on October 27, 2016 (“Complaint”) pursuant to Federal Rule of Civil Procedure 12(b)(1) and (6) for an Order dismissing or staying this action on the grounds that (a) Plaintiff’s claims are preempted by the National Bioengineered Food Disclosure Standard; (b) the case should be dismissed or stayed pursuant to the doctrine of primary jurisdiction; (c) Plaintiff lacks standing; and (d) Plaintiff fails to plead a plausible claim.

PLEASE TAKE FURTHER NOTICE that, pursuant to Rule 7(a)(1) of the Local Rules of Civil Procedure for the Western District of New York, Defendant requests the opportunity to submit reply papers in support of this motion.

PLEASE TAKE FURTHER NOTICE that, pursuant to Local Rule 7(b)(2)(B), Plaintiff shall have fourteen days after service of this motion to file and serve responding papers, and Defendant shall have seven days after service of the responding papers to file and serve reply papers, unless the Court orders a different schedule.

Dated: New York, New York
January 9, 2017

/s/ Frank T. Spano
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